
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

GEORGE THOMAS,

Plaintiff,

*versus*TYLER COUNTY,
FEMA d/b/a ARBORTURE, INC.,
and ARBOTURF,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:09-CV-997

MEMORANDUM ORDER

The court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration and recommended disposition of case-dispositive pretrial motions. On November 4, 2010, Judge Giblin issued a report and recommendation on the defendants' motions to dismiss. He recommended that the court grant the motions to dismiss for lack of subject matter jurisdiction and failure to state a claim.

The plaintiff objected to the magistrate judge's recommendation by filing a response and motion to reverse the report and recommendation. The plaintiff contends that he is a victim of discrimination and wrongful termination. He also restates the factual background originally presented in his petition and generally asks the court for justice. His objections do not point to any specific finding or legal conclusion set forth by the magistrate's judge's report which the plaintiff alleges to be in error. The plaintiff's objections also do not address the jurisdictional issues discussed in Judge Giblin's report. The plaintiff presents no argument in opposition to Judge Giblin's finding that this court does not have subject matter jurisdiction over the plaintiff's claims against FEMA.

The plaintiff's petition does not set forth a claim for Title VII employment discrimination. He now argues in his objections that his race and nationality were related to the alleged wrongful termination. As Judge Giblin addressed in his report, any Title VII cause of action for wrongful termination must be dismissed because the plaintiff did not exhaust his administrative remedies by filing a charge with the Equal Employment Opportunity Commission (EEOC) and any Title VII cause of action arising out of the plaintiff's termination is time-barred.

Pursuant to the plaintiff's objections and in accordance with 28 U.S.C. § 636(b)(1), the Court conducted a *de novo* review of the magistrate judge's findings, the record, the plaintiff's specific objections, and the applicable law in this proceeding. After review, the Court finds that Judge Giblin's findings and recommendations should be accepted. The plaintiff's objections (#31) are overruled.

Based upon the magistrate judge's findings of fact and recommended disposition, the court ORDERS that the report and recommendation (#29) on the motions to dismiss is ADOPTED. The court further ORDERS that defendant Tyler County's motion to dismiss (#13) and defendant FEMA's motion to dismiss (#23) are GRANTED. The motions are granted with respect to all of plaintiff George Thomas' claims for lack of subject matter jurisdiction and failure to state a claim. The plaintiff's claims are DISMISSED with prejudice. The Clerk of Court is directed to CLOSE this civil action.

SIGNED at Beaumont, Texas, this 1st day of December, 2010.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE